

## **REMARKS**

Claims 1-24 are pending in the instant application. Claims 1-24 have been rejected by the Examiner. Claims 1-10, 12, 14, 15, and 19 have been amended. The Applicants submit that claims 1-24 are in condition for allowance and respectfully request reconsideration and withdrawal of the outstanding rejections. No new matter has been entered.

### **Support for Claim Amendments**

Independent claim 1 has been amended to recite structures/elements performing the underlying processes in response to the rejection presented under 35 U.S.C. 101. Support for the amendment to claim 1 may be found throughout the Applicants' specification and drawings, e.g., Figure 1, and paragraphs [0010]-[0022] and [0028].

Claim 2 has been amended to remove a feature that is now incorporated into claim 8 by this amendment.

Claims 3-6 have been amended to provide antecedent basis and/or to obviate the rejections presented under 35 U.S.C. 101. Support may be found, e.g., in Figure 1, and paragraphs [0010]-[0022] and [0028].

Claim 7 has been amended to include features previously recited in claim 8 prior to this amendment. In addition, claim 7 has been amended to provide antecedent basis and to obviate the rejections presented under 35 U.S.C. 101. Support may be found, e.g., in Figure 1, and paragraphs [0010]-[0022] and [0028].

Claim 8 has been amended to remove features which are now incorporated into claim 7 by this amendment. Claim 8 has also been amended to include a feature previously recited in claim 2, prior to this amendment.

Claim 9 has been amended to provide antecedent basis and to address the rejections presented under 35 U.S.C. 101. Support may be found, e.g., in Figure 1, and paragraphs [0010]-[0022] and [0028].

Support for the amendments made to independent claims 10 and 19 may be found, e.g., in Figure 1, and paragraphs [0010]-[0022] and [0028].

Claim 12 has been amended to remove features that are now incorporated into claim 15 by this amendment.

Claim 14 has been amended to include features previously recited in claim 15 prior to this amendment.

Claim 15 has been amended to remove features that are now incorporated into claim 14 by this amendment, and to include features previously recited in claim 12 prior to this amendment.

As ample support for the amendments is found throughout the Applicants' specification, drawings, and claims originally filed, the Applicants submit that no new matter has been entered.

#### **Claim Rejections Under 35 USC §101**

Claims 1-9 have been rejected under 35 U.S.C. 101 as allegedly failing to recite statutory subject matter. In particular, the Examiner has rejected claims 1-9 as reciting purely mental processes having features that are not tied to another statutory class or do not positively recite underlying subject matter to be transformed. Claims 1, 3-7, and 9 have been amended to recite particular structures/elements that perform the underlying processes. The Applicants submit that the amendments to claims 1, 3-7, and 9 obviate the rejections presented under 35 U.S.C. 101 and that claims 1-9 recite statutory subject matter. Reconsideration and withdrawal of the outstanding rejections is respectfully requested.

#### **Claim Rejections Under 35 USC §103**

Claims 1-4, 6, 8, 9-13, 15, 17-22, and 24 have been rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over U.S. Publication No. 2002/0046093 to Miller et al. (hereinafter "Miller") in view of U.S. Publication No. 2001/0051905 to Lucas. In addition, claims 5 and 14 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Lucas and further in view of U.S. Patent No. 6,061,682 to Agrawal et al. (hereinafter "Agrawal"). Also, claims 7, 16, and 23 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Lucas and further in view of Official Notice.

Independent claim 1 is directed to a method for automating recurrent electronic

transactions conducted over a network. Claim 1 has been amended to recite, *inter alia*, “***gathering, by a purchasing system, data from an application executing on a computer device in response to electronic activities conducted by a network user of the computer device***;

performing, via the purchasing system, analysis of the electronic activities;

the purchasing system inferring an intent to execute a transaction by the network user, the inference based upon results of the analysis and absent any explicit action by the network user to execute the transaction; and

the purchasing system automatically executing the transaction on behalf of the network user, the automatically executing the transaction including executing a purchase of a service/product on behalf of the network user;

wherein the analysis includes:

***comparing the electronic activities with previously-conducted electronic activities by the network user***; and

applying user-defined policies to the electronic activities.”

None of the cited references, alone or in combination, teaches, suggests, or renders obvious these features. Miller is directed to a system for targeting and delivering sales information based upon user input relating to products (Abstract). Miller teaches personally identifying information concerning a registered user is solicited and gathered by the services (such as “name, billing & shipping address, e-mail address, telephone number, credit card number...demographic information such as gender, age, income level and other information that a user voluntarily provides in response to feedback forms and surveys” (paragraph [0130])). The system or services also collects non-personal information “that cannot be traced back to a specific individual” (paragraph [0131]). This non-personal information about a user is gathered “***based upon his or her activity on the Site or the way the user uses services***” (e.g., Web site URL, browser used, page views, IP address, which is “compiled and analyzed on an aggregated basis” (paragraph [0131]); emphasis added by Applicants). The personal identifying information is used to provide subscribers with updated information about

services...[and] [d]emographic information is used to tailor a subscribers' experience of the service, such as by displaying advertisements and content that might be of interest to the subscriber" (paragraph [0133]). Thus, the analysis performed in Miller relates to non-personal (i.e., non personally-identifying) activities collected based upon user activities. By contrast, the Applicants' claim 1 recites an analysis of a particular network user based upon the *user's own electronic-based activities*. The suggested products or items of interest as disclosed in Miller are provided in response to information solicited from the users by the system via the feedback forms and surveys, and not in response to analysis of user-conducted electronic activities, as recited in claim 1.

As Miller fails to teach or suggest these features recited in claim 1, the introduction of Lucas for allegedly teaching "automatically executing the transaction on behalf of the network user, the automatically executing the transaction including executing a purchase of a service/product on behalf of the network user," fails to cure the aforementioned deficiencies of Miller.

For at least this reason, the Applicants submit that claim 1 is patentable over Miller and Lucas, alone or in combination. Claims 2-4, 6, 8, and 9 depend from what should be an allowable base claim. For at least these reasons, claims 2-4, 6, 8, and 9 are in condition for allowance.

Claim 8 should also be patentable in and of itself. Claim 8 has been amended to recite, *inter alia*, "wherein the electronic activities includes accessing a personal information calendar." These features are not found in Miller or Lucas, either alone or in combination. Nor are these features rendered obvious in view of Miller and Lucas. Neither of these references makes reference to a personal information calendar. By extension, neither reference teaches or suggests analyzing electronic activities conducted by a network user, whereby the electronic activities includes accessing personal information calendar. Accordingly, for at least this reason, the Applicants submit that claim 8 is patentable over Miller in view of Lucas.

In addition, claim 9 has been amended to depend from claim 8 and recites, *inter alia*, "wherein the previously-conducted electronic activities include:

an occurrence of a meeting scheduled into the personal information calendar.”

As indicated above with respect to claim 8, from which claim 9 depends, none of the references teaches or suggests a personal information calendar. Moreover, there is no teaching or suggestion in either reference of electronic activities including an occurrence of a meeting scheduled in a personal information calendar. For at least this reason, the Applicants submit that claim 9 is patentable over the references, alone and in combination.

Independent claim 10 is directed to a storage medium for automating recurrent electronic transactions conducted over a network. Claim 10 has been amended to recite, *inter alia*, “gathering, by a purchasing system, data from an application executing on a computer device in response to electronic activities conducted by a network user of the computer device;

performing analysis of the electronic activities;

inferring an intent to execute a transaction by the network user, the inference based upon results of the analysis and absent any explicit action by the network user to execute the transaction; and

executing the transaction on behalf of the network user, the automatically executing the transaction including executing a purchase of a service/product on behalf of the network user;

wherein the analysis includes:

comparing the electronic activities with previously-conducted electronic activities by the network user; and

applying user-defined policies to the electronic activities.”

As indicated above with respect to claim 1, neither Miller, nor Lucas, alone or in combination teaches, suggests, or renders obvious these features. For at least this reason, the Applicants submit that claim 10 is patentable over Miller and Lucas and is in condition for allowance. Claims 11-13, 15, 17, and 18 depend from what should be an allowable base claim. For at least these reasons, the Applicants submit that claims 11-13, 15, 17, and 18 are

in condition for allowance.

Claim 15 should be patentable in and of itself. Claim 15 has been amended to recite, *inter alia*, “wherein the policies and rules include at least one of:

placing an upper limit on an amount of money that is authorized to be spent on a transaction; and

placing a time limit on when a transaction may be executed.” Miller teaches policies relating to availability and vendor selection; however, there is no teaching or suggesting in Miller of policies and rules relating to limits of money authorized for a transaction and/or time limits on transaction execution, as recited in claim 15. Lucas also is devoid of teaching this feature. For at least this reason, the Applicants submit that claim 15 is patentable over Miller and Lucas.

Independent claim 19 is directed to a system for automating recurrent electronic transactions conducted over a network. Claim 1 has been amended to recite, *inter alia*, “a computer system; and

a purchasing system executed via the computer system, the purchasing system implementing a method, comprising:

gathering data from an application executing on a computer device in response to electronic activities conducted by a network user of the computer device;

performing analysis of the electronic activities;

inferring an intent to execute a transaction by the network user, the inference based upon results of the analysis and absent any explicit action by the network user to execute the transaction; and

automatically executing the transaction on behalf of the network user, the automatically executing the transaction including executing a purchase of a service/product on behalf of the network user;

wherein the analysis includes:

comparing the electronic activities with previously-conducted electronic activities by the network user; and

applying user-defined policies to the electronic activities.”

As indicated above with respect to claim 1, neither Miller, nor Lucas, alone or in combination, teaches, suggests, or renders obvious these features. For at least this reason, the Applicants submit that claim 19 is patentable over Miller and Lucas and is in condition for allowance. Claims 20-22 and 24 depend from what should be an allowable base claim. For at least this reason, the Applicants submit that claims 20-22, and 24 are in condition for allowance.

Claims 5 and 14 have been rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Miller in view of Lucas and Agrawal. This rejection is traversed for the following reasons.

Agrawal was relied upon for allegedly disclosing searching a service/product database to ensure that the items and services associated with the transaction are compatible with the transaction, but fails to cure the deficiencies of Miller in view of Lucas discussed above with reference to claims 1 and 10. Claims 5 and 14 depend from claims 1 and 10, respectively, and are patentable over Miller in view of Lucas and Agrawal for at least the reasons advanced with reference to claims 1 and 10.

Claims 7, 16, and 23 have been rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over Miller in view of Lucas and Official Notice. This rejection is traversed for the following reasons.

Official Notice was relied upon for an application program interface, but fails to cure the deficiencies of Miller in view of Lucas discussed above with reference to claims 1, 10 and 19. Claims 7, 16 and 23 depend from claims 1, 10 and 19, respectively, and are patentable over Miller in view of Lucas and Official Notice for at least the reasons advanced with reference to claims 1, 10 and 19.

Reconsideration and withdrawal of the rejections to claims 1-24 is respectfully requested.

**CONCLUSION**

It is believed that the foregoing amendments and remarks fully comply with the Office Action and that the claims herein should now be allowable to Applicants. Accordingly, reconsideration and allowance is requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130.

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